



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

JMM/SK
F.#2013R00948

*610 Federal Plaza
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March 27, 2015

By ECF

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Re: United States v. Philip Kenner & Tommy Constantine
Criminal Docket No. 13-607(JFB)

Dear Messrs. Haley and LaRusso:

This is to memorialize that yesterday I informed both of you that the government had located original, signed "Funding Consulting Agreements," purportedly dated in 2004 and 2005, among documents seized pursuant to the search warrant executed at defendant Kenner's home in 2013. Copies of these agreements were previously provided in Rule 16 discovery in 2014. (See DOC-00000007 to 14). Those duplicates were originally filed in the Owen Nolan arbitration against defendant Kenner over fraudulent diversions of money from the Hawaii property development charged in the indictment.

The government previously notified the defendants that evidence will be presented at trial that the "Funding Consulting Agreements" are fraudulent insofar as they contain the signature of a victim of the fraud conspiracy, and were created and offered by the during the Nolan arbitration in 2009 to falsely justify a \$2 million theft of funds from the Hawaii property development by defendants Kenner and Constantine.

Pursuant to our conversations yesterday, the government has arranged to have defendant Kenner to be transported by the Marshals to the Central Islip courthouse on Monday, March 30, 2015 at 11 a.m. so that the defendant and Mr. Haley may physically inspect the original consulting agreements pursuant to F.R.Cr.P. 16. Mr. LaRusso has indicated that he would be satisfied with a copy of the original documents insofar as defendant Constantine has returned to his residence.

Please be advised that in the event that the original documents are submitted for forensic analysis, the government will provide notice of the results of such analysis as expeditiously as possible as required by Rule 16.

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

/S/

By:

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cc: Clerk of the Court (JFB)